



April 4, 2003

ENGROSSED HOUSE BILL No. 1243

DIGEST OF HB 1243 (Updated April 2, 2003 12:44 PM - DI 106)

Citations Affected: IC 36-9.

Synopsis: Sewer liens. Provides that the municipal officer responsible for collecting municipal sewer fees record and certify liens relating to delinquent sewer fees by using either a list or individual instruments. Requires that certification occur not later than 10 days after recording.

Effective: July 1, 2003.

Ayres, Stevenson

(SENATE SPONSORS — SKILLMAN, DEMBOWSKI)

January 13, 2003, read first time and referred to Committee on Local Government.
February 17, 2003, amended, reported — Do Pass.
February 20, 2003, read second time, ordered engrossed. Engrossed.
February 24, 2003, read third time, passed. Yeas 96, nays 0.

SENATE ACTION

February 27, 2003, read first time and referred to Committee on Judiciary.
April 3, 2003, reported favorably — Do Pass.

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April 4, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1243

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-9-23-33, AS AMENDED BY P.L.171-2002,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]: Sec. 33. (a) An officer described in subsection (b) may
4 defer enforcing the collection of unpaid fees and penalties assessed
5 under this chapter until the unpaid fees and penalties have been due
6 and unpaid for at least ninety (90) days.

7 (b) Except as provided in subsection (1), the officer charged with the
8 collection of fees and penalties assessed under this chapter shall
9 enforce their payment. As often as the officer determines is necessary
10 in a calendar year, the officer shall prepare **either of the following**:

11 (1) A list of the delinquent fees and penalties that are enforceable
12 under this section, which must include the **following**:

13 (A) **The** name or names of the owner or owners of each lot or
14 parcel of real property on which fees are delinquent.

15 (B) A description of the premises, as shown by the records of
16 the county auditor. ~~and~~

17 (C) **The** amount of the delinquent fees, together with the

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penalty. ~~or~~

(2) An individual instrument for each lot or parcel of real property on which the fees are delinquent.

(c) The officer shall record a copy of each list or each individual instrument with the county recorder who shall charge a fee for recording ~~it the list or each individual instrument~~ in accordance with the fee schedule established in IC 36-2-7-10. The officer shall then mail to each property owner on the list or on an individual instrument a notice stating that a lien against the owner's property has been recorded. Except for a county having a consolidated city, a service charge of five dollars (\$5), which is in addition to the recording fee charged under this subsection and under subsection (f), shall be added to each delinquent fee that is recorded.

(d) This subsection applies only to a county containing a consolidated city. Using the lists and instruments prepared under subsection (b) and recorded under subsection (c), the officer shall certify to the county auditor a list of the liens that remain unpaid according to a schedule agreed upon by the county treasurer and the officer for collection with the next cycle's property tax installment. The county and its officers and employees are not liable for any material error in the information on the list.

(e) Using the lists and instruments prepared under subsection (b) and recorded under subsection (c), ~~after September 1 of the preceding calendar year and before September 1 of the current calendar year~~, the officer shall, ~~before December 15 of each year~~ **not later than ten (10) days after the list or each individual instrument is recorded under subsection (c)**, certify to the county auditor a list of the liens that remain unpaid for collection in the next May. The county and its officers and employees are not liable for any material error in the information on this list.

(f) The officer shall release any recorded lien when the delinquent fees, penalties, service charges, and recording fees have been fully paid. The county recorder shall charge a fee for releasing the lien in accordance with IC 36-2-7-10.

(g) On receipt of the list under subsection ~~(d)~~ ~~or~~ (e), the county auditor of each county ~~(excluding a county having a consolidated city)~~ shall add a fifteen dollar (\$15) certification fee for each lot or parcel of real property on which fees are delinquent, which fee is in addition to all other fees and charges. The county auditor shall immediately enter on the tax duplicate for the municipality the delinquent fees, penalties, service charges, recording fees, and certification fees, which are due ~~no~~ **not** later than the due date of the next May installment of property

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1 taxes. ~~However,~~ In a county having a consolidated city, the delinquent
 2 fees, penalties, service charges, and recording fees are due not later
 3 than the due date of the next installment of property taxes. The county
 4 treasurer shall then include any unpaid charges for the delinquent fee,
 5 penalty, service charge, recording fee, and certification fee to the owner
 6 or owners of each lot or parcel of property, at the time the next cycle's
 7 property tax installment is billed.

8 (h) After ~~the date of certification in each year,~~ **of liens under**
 9 **subsection (e),** the officer may not collect or accept delinquent fees,
 10 penalties, service charges, recording fees, or certification fees from
 11 property owners whose property has been certified to the county
 12 auditor. This subsection does not apply to a county containing a
 13 consolidated city.

14 (i) If a delinquent fee, penalty, service charge, recording fee, and
 15 certification fee are not paid, they shall be collected by the county
 16 treasurer in the same way that delinquent property taxes are collected.

17 (j) At the time of each semiannual tax settlement, the county
 18 treasurer shall certify to the county auditor all fees, charges, and
 19 penalties that have been collected. The county auditor shall deduct the
 20 service charges and certification fees collected by the county treasurer
 21 and pay over to the officer the remaining fees and penalties due the
 22 municipality. The county treasurer shall retain the service charges and
 23 certification fees that have been collected, and shall deposit them in the
 24 county general fund.

25 (k) Fees, penalties, and service charges that were not recorded
 26 before a recorded conveyance shall be removed from the tax roll for a
 27 purchaser who, in the manner prescribed by section 32(d) of this
 28 chapter, files a verified demand with the county auditor.

29 (l) A board may write off a fee or penalty under subsection (a) that
 30 is for less than forty dollars (\$40).

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1243, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 10, reset in roman "in a".

Page 1, line 10, delete "but not more often than once each".

Page 1, line 10, reset in roman "year,".

Page 1, line 10, delete "quarter,".

and when so amended that said bill do pass.

(Reference is to HB 1243 as introduced.)

MOSES, Chair

Committee Vote: yeas 12, nays 0.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred House Bill No. 1243, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to House Bill 1243 as printed February 18, 2003.)

BRAY, Chairperson

Committee Vote: Yeas 7, Nays 0.

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